

31 December 2021

Mahama Ayariga
Member of Parliament for Bawku Central
Accra, Ghana

Dear Sir,

RE: ILLEGAL ACTIVITIES INVOLVING GHANA AMALGAMATED TRUST (GAT)

1. Background

1.1 We refer to the following letters:

- (a) your letter titled "CEASE AND DESIST ORDER TO GAT: STOP THE FRAUD" dated 20 December 2021 and issued to the Governor of the Bank of Ghana and copied to selected persons (including the Ghana Amalgamated Trust Plc (**GAT**)) and the media (your **First Letter**);
- (b) our press release dated 26 December 2021 in respect of your 20 December 2021 letter (our **Press Release**); and
- (c) your letter titled "ILLEGAL ACTIVITIES INVOLVING GHANA AMALGAMATED TRUST (GAT)" dated 29 December 2021 and issued to the chairman of the board of directors of the GAT (your **Second Letter**).

1.2 By our Press Release, we highlighted and corrected the false statements of facts and flawed conclusions in your First Letter. Considering that the factual basis of our responses in the Press Release are easily verifiable, we expected your Second Letter to acknowledge (or rebut with evidence) the facticity of the corrections. Sadly, however, your Second Letter has set up new and false claims and, in some instances, repeated some of the previous false claims.

2. Responses

GAT responds to the false claims in the Second Letter as follows:

2.1 "...GAT may actually be acting in concert with the Ministry of Finance to deny Ghanaians the benefits accruing from the investments that GAT is purporting to have undertaken on behalf of Ghanaians."

This is totally false and baseless. *First* (and as indicated in our Press Release), GAT's proposed initial public offer (the **IPO**) does not involve any sale or divestment of shares held by GAT in the selected banks. It is rather a **public offer** of preference shares to be issued by GAT to raise funds to redeem the GHS 800 million preference shares held by the Government of Ghana. Since the IPO will be a public offer (and not a private sale or placement), any person can participate in the IPO.

Second, the primary target for the IPO is Ghanaian pension funds and so the beneficial interest goes to the Ghanaian public through the pension funds. *Third*, the benefit or proceeds of the IPO go back to the Government of Ghana to redeem the GHS 800 million preference shares it holds in GAT.

Finally (and after the IPO), the bulk of the benefits or proceeds of the GAT investments in the selected banks (i.e. dividends and proceeds of any share sale) will go to the investors

under the IPO, which will be mainly the Ghanaian pension funds. Any residual funds will be for the benefit of the Government of Ghana as the ultimate beneficial owner of the ordinary shares in GAT.

- 2.2 “...[GAT is] not a public corporation enacted by an Act of Parliament so it is unconstitutional for the Finance Minister to be directly investing public funds in [GAT] and issuing colossal sums of sovereign guarantees in [GAT’s] favour...”

This is also totally baseless. *First*, Ghanaian law does not prohibit the Government of Ghana from establishing a company limited by shares. That is why there is a concept and definition of “state-owned enterprise” under the Public Financial Management Act, 2016 (Act 921) (the **PFMA**) and the State Interests and Governance Authority Act, 2019 (Act 990). There are numerous examples of Government’s equity holdings in companies limited by shares.

Second, the Government of Ghana (through the Ministry of Finance) is also not prohibited from making equity investments (with public funds) in any state-owned enterprise (including GAT). Of course, such allocation and use of public funds are subject to the budgetary appropriation and approval requirements under the PFMA. All equity investments made by the Government in Ghana in GAT (including the GHS 800 million preference share investment) have been compliant with the applicable budgetary appropriation and approval requirements.

- 2.3 “[t]he GHC 800 million raised from the consolidated funds and the accompanying sovereign guarantee that the Finance Ministry now seeks to give, at best, constitutes public lending under article 181 of the Constitution of Ghana and an elaborate parliamentary approval process was required but was not obtained. The Parliamentary approval I have seen relates to the PCOA framework. Approval for specific lending from a public fund as prescribed by the Constitution of the Republic of Ghana was not obtained. The absence of these Parliamentary approvals renders the whole transaction unconstitutional and any subsequent actions taken thereupon cannot stand.”

This is also totally false and baseless. Neither GAT nor the Ministry of Finance has undertaken any unconstitutional or unlawful action in relation to the GHS 800 million preference share investment in GAT, the sovereign guarantee or the PCOA.

First, GAT’s initial proposed source of funding for its investments in the selected banks was debt capital under a bond issuance programme. This initial fund raising was to be backed by a sovereign guarantee. That sovereign guarantee was approved by Parliament of Ghana and a cursory search in the Hansards would have revealed this fact.

Second, the proposed bond transaction was abandoned (due to, among others, time constraints) in favour of the GHS 800 million preference share investment by the Government of Ghana. Accordingly, the sovereign guarantee (backing the proposed bond transaction) became moot.

Third, the GHS 800 million preference share investment by the Government of Ghana in GAT is an investment in shares subject to the applicable budgetary appropriation and approval requirements under the PFMA (and not a debt or loan transaction requiring special parliamentary approval under article 181 of the Constitution of Ghana or section 67 of the PFMA). As indicated under paragraph 2.2 above, the GHS 800 million preference share investment was compliant with the applicable budgetary appropriation and approval requirements.

Finally, for the purpose of redeeming the Government’s GHS 800 million preference share investment in GAT, GAT has proposed the IPO as the source of funding for the redemption. The PCOA (i.e. the put call option agreement) you have referred to is the Government’s undertaking (replacing the sovereign guarantee) which backs GAT’s redemption

obligations under the IPO. The PCOA (as a contingent payment obligation of the Government of Ghana) requires (and has received) parliamentary approval.

- 2.4 *"[i]t is my firm belief that GAT had submitted a Prospectus to the Securities and Exchange Commission (SEC) all in the bid to off load its shares to some private persons. GAT under the said IPO is seeking to raise and refund the same amount of GHs800M to Government which amount GAT had used to trade with the banks as equity and preference shares in 2019. However, GAT on the "blind-side" of the people of Ghana, is further planning to withhold and/or pass on the accrued benefits due Government on to the private persons..."*

Again, this is totally false and baseless. *First*, we have already refuted this in our Press Release and under paragraph 2.1 above. Clearly, an IPO (or a public offer) cannot be about the "offloading" of shares to some or selected private persons on anyone's "blind side" as you falsely claim. *Second*, this appears to be a "moving the goalpost" situation. The First Letter alleged that GAT was offloading its shares in the selected banks to private persons. This false claim was refuted in our Press Release and the correct position was highlighted as being that GAT is planning the IPO, which is not a private sale of shares in the selected banks (but a public offer of shares of GAT itself). Following the correction in our Press Release, your Second Letter is now alleging that GAT is (through the IPO) offloading its own shares to private persons. This is sad.

We hope this clarifies the matters for you and puts an end to the series of regrettably baseless claims. As we have indicated previously, GAT will continue to engage all stakeholders to ensure that its mandate is successfully and fully achieved.

Best regards,



Eric Otoo
Managing Director
Ghana Amalgamated Trust Plc

CC:

The Governor, the Bank of Ghana

The Director General, Securities and Exchange Commission

The Boards of Trustees of Pension Funds in Ghana

The Media Houses of Ghana